UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2002/NGO/51
24 January 2002

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 17 (d) of the provisional agenda

PROMOTION AND PROTECTION OF HUMAN RIGHTS: SCIENCE AND ENVIRONMENT

Written statement* submitted by the International Indian Treaty Council, a non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201039 0*
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The International Indian Treaty Council and Indigenous Peoples around the world view the uses of rapidly developing bio-technologies as being in direct conflict with international human rights norms and principles. They are a direct threat to Indigenous Peoples' Self- Determination, Cultural rights, and Right to Food, and raise grave concerns regarding issues of access to genetic resources and equitable benefit-sharing.

We are profoundly concerned about the wide ranging activities of the biotechnology industry pertaining to commercializing the Human, Plant and Animal Genomes. The proliferation of genetically modified foods and micro-organisms has direct impacts on food security, cultural rights and health of Indigenous Peoples.

Attempts to clarify the relationships between intellectual property rights and human rights have fallen far short of convincing Indigenous Peoples that their rights will be protected and their concerns addressed in this regard.

Challenges include the urgent need to reform current intellectual property rights systems and regimes to address issues of individual vs. collective rights, generational rights, spiritual and cultural concerns, and protection of traditional and collective knowledge, traditional uses and relationships.

Currently, international intellectual property regimes are incompatible with the needs of Indigenous Peoples and developing countries , perpetuating inequalities. Indigenous organizations have brought attention to the fact that patent requirements for life-forms reduce Indigenous Peoples' right to self-determination by reducing their ability to control their genetic and natural resources. The U.S. remains one of the only countries in the world that recognizes patents on life forms.

The U.S. patent office has opened the doors to the biotechnology industry, allowing entire species of plants, transgenic animals, and over 500,000 whole or partial genes to be patented. Under the U.S. system, basic biological resources are privatized, and are thus accessible only to those willing and able to pay royalty fees for access or research.

The right to adequate food and food security is directly threatened by genetic modification and patenting of seeds. The production of traditional food crops have been seriously compromised. In the US, diabetes, cancers, and hypertension have significantly increased among Indigenous Peoples because of the increasing scarcity of traditional foods and the dumping of junk food into our communities.

The appropriation of our lands and resources and the aggressive promotion of consumerist and individualistic Western culture through the use of advancing technologies continue to destroy traditional lifestyles and cultures. The result is environmental degradation, ill health, alienation, and high levels of stress manifested in high rates of alcoholism and suicides.

The theft and patenting of Indigenous Peoples' bio-genetic resources is facilitated by the Trade Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO). Some plants which Indigenous peoples have discovered, cultivated, and used for food, medicine, and for sacred rituals since time immemorial are already patented in the United States, Japan, and Europe.

A few examples of these are ayahuasca, quinoa, and sangre de drago in South America; Kava in

the Pacific; turmeric and bitter melon in Asia. Indigenous Peoples access to and control over their biological diversity, traditional knowledge and intellectual heritage are threatened by the TRIPs Agreement.

Article 27.3(b) of the TRIPs Agreement allows patenting of life-forms and makes an artificial distinctions between plants, animals, and micro-organisms, as well as between "essentially biological" and "non-biological" and "micro-biological" processes. Indigenous Peoples maintain that these life-forms and life-creating processes are sacred and indivisible, and should not become the subject of private property ownership.

The IITC and its affiliate organizations reiterate to this body that Article 27.3(b) of the WTO should be amended to categorically disallow the patenting of life-forms. It should clearly prohibit the patenting of micro-organisms, plants, animals, including all their parts, including genes, gene sequences, cells, cell lines, proteins, and seeds.

It should also prohibit the patenting of natural processes, whether these are biological or micro-biological, involving the use of plants, animals and micro-organisms and their parts in producing variations of plants, animals and micro-organisms. The TRIPS should ensure the exploration and development of alternative forms of protection outside of the dominant western intellectual property rights regime.

Such alternatives must protect Indigenous Peoples' knowledge, innovations and practices in agriculture, health care, and conservation of bio-diversity, and should build upon their methods, traditions and customary laws for protecting knowledge, cultural and intellectual heritage and biological resources.

Article 27.3(b) must be changed to insure that the protection offered to Indigenous and traditional knowledge, innovations and practices is consistent with the Convention on Biological Diversity (i.e. Articles 8j, 10c, 17.2, and 18.4) and the International undertaking on Plant Genetic Resources. It should allow for the right of Indigenous Peoples and farmers to continue their traditional practices of saving, sharing and exchanging seeds, and cultivating, harvesting and using medicinal plants.

It should also prohibit scientific researchers and corporations from appropriating and patenting indigenous seeds, medicinal plants, and related knowledge about these life-forms. The principles of prior informed consent and right of veto by Indigenous Peoples should be respected.

Indigenous peoples believe that the entire philosophy underpinning the WTO Agreements and the principles and policies it promotes contradict our core values, spirituality and world views, as well as our concepts and practices of development, trade and environment protection. Therefore we challenge the WTO to redefine its principles and practices toward a "sustainable communities" paradigm, and to recognize and allow for the continuation of other world views and models of development. (from the Indigenous Peoples' Seattle Declaration, 1999)

Terms such as "strategic raw materials" addressing the south and sub-tropics, where 80% of the bio-diversity is located, reflect a quest for acquisition of genes of plants, animals and micro-organisms which would be used to develop new commercial food resources. It is a fallacy to refer to the materials sought by "bio-prospectors" as raw, or in a primitive stage of development, since local farmers and Indigenous Peoples have improved and cared for them for thousands of years!

Recently, in Chiapas, Mexico a situation presented itself where Indigenous Peoples organized and prevented a U.S. government funded bio-prospecting project from continuing its efforts to control their sovereign genetic resources and knowledge. They demanded the suspension by Mexico of the International Collaborative Bio-diversity Group -Maya (ICBG-Maya). The ICBF-Maya was funded $2.5 million as a 5 year project aimed at the bio-prospecting of medicinal plants and traditional knowledge of the Mayan Indian peoples.

The project is led by the University of Georgia, in cooperation with a Mexican university research center, El Colegio de la Frontera Sur (ECOSUR), and Molecular Nature Ltd., a biotechnology company based in Wales, United Kingdom. The ICBF's self-stated goal are to promote drug discovery from natural sources, bio-diversity conservation, and sustainable economic growth in developing countries.

The umbrella organization for the 11 Indigenous organizations who opposed this intrusion, Consejo de Medicos y Parteras Indigenous Tradicionales de Chiapas, believes that the bio-prospecting project and the pharmaceuticals it seeks to discover will not ultimately benefit the communities that have managed and nurtured these resources for thousands of years. According to Sebastian Luna, a spokesperson for the Consejo, "the project explicitly proposes to patent and privatize resources and knowledge that have always been collectively owned. Besides being totally contradictory to our culture and traditions, the project creates conflict within our communities as some individuals, pressured by the grave economic situation, collaborate with the researchers for a few pesos or tools."

Mexico is the steward of the global maize diversity and is at risk of losing unique diversity of maize to genetic pollution. Mexican traditional maize, used and cared for the Indigenous Peoples over thousands of years, is already contaminated by genetically modified strains. The Mexican government has confirmed the contamination of at least in 15 communities in Central Mexico, but has taken no action to eliminate the source or to implement emergency measures to control the damage to the environment and food chain.

Even a low level of genetic contamination is highly significant since it is likely to multiply through pollen flow and spread further to other traditional varieties and wild relatives growing in the area, threatening crop diversity essential to pest and disease resistance, climatic and environmental variations.

IITC strongly supports the initiative by the UN High Commissioner on Human Rights to organize a fourth expert consultation on the right to food, with a focus on how WTO Article 27.3(b) functions contrary to the rights of Indigenous Peoples, and fails to make linkages with existing international human rights standards.

The IITC fully supports Commission Resolution 2001/71, April 25, 2001, approved by ECOSOC in July, requesting the UN Secretary-General to make proposals concerning proper coordination of activities pertaining to biological ethics and human rights throughout the UN system by establishing a Working Group of independent experts representing UNESCO, WHO, WIPO and other relevant UN bodies. This Working Group, which should also include representatives of Indigenous NGO's, would evaluate the implementation and address new developments pertaining to the Universal Declaration on the Human Genome and Human Rights.